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2 Honorable \_\_\_\_\_  
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5 Michael McNulty  
6 United States Department of Justice  
7 Environment and Natural Resources Division  
8 Environmental Enforcement Section  
9 P.O. Box 7611  
10 Ben Franklin Station  
11 Washington, D.C. 20044  
12 (202) 514-1210  
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UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA, ) CIVIL ACTION NO.  
Plaintiff, ) C03-5107 FDB  
v. )  
MARY JANE ANDERSON, ET AL., )  
Defendants. )  
\_\_\_\_\_

AMENDMENT TO THE CONSENT DECREE

AMENDMENT TO THE CONSENT DECREE  
Commencement Bay Nearshore/Tideflats  
Superfund Site - C03-5107 FDB

United States Department of Justice  
Environmental & Natural Resources  
Division  
Environmental Enforcement Section

1           WHEREAS, the United States of America, on behalf of the Environmental Protection  
2 Agency (hereinafter “the United States”); the City of Tacoma Environmental Services  
3 Department (Formerly identified as Department of Public Utilities); and Joseph Simon & Sons  
4 are parties to the Consent Decree entered by this Court in this action on February 26, 2003  
5 (hereinafter “the Consent Decree”); and

7           WHEREAS, as reflected in this Amendment, the United States, the City of Tacoma  
8 Environmental Services Department; and Joseph Simon & Sons are “Settling Defendants”  
9 identified in Appendix A of the Consent Decree and have agreed upon certain additional  
10 modifications of the Consent Decree related solely to these Settling Defendants and none of the  
11 other parties to the Consent Decree; and

14           WHEREAS, the City of Tacoma Environmental Services Department (identified as City  
15 of Tacoma Public Works); and Joseph Simon & Sons (identified as Joseph Simon & Sons/R&L)  
16 are among the entities listed on Appendix C of the Consent Decree (the “Appendix C Parties”);  
17 and

19           WHEREAS, the United States expressly reserved the right to recover additional  
20 Response Costs from the Appendix C parties in accordance with paragraphs 6. c. ii) and 24. b.;  
21 and

23           WHEREAS, the Port of Tacoma, Occidental Chemical Corporation, General Metals of  
24 Tacoma, Inc., and Arkema, Inc. (hereinafter “the Performing Parties”) have performed  
25 substantial remedial actions pursuant to other consent decrees entered by this Court that have  
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1 been funded in part by the previous contributions of the Settling Defendants named in the  
2 Consent Decree; and  
3

4 WHEREAS, the Performing Parties have incurred additional Response Costs above the  
5 cost estimate of \$56,056,407 as identified in Section VI. 6. of the Consent Decree; and  
6

7 WHEREAS, as reserved in paragraph 24. b. and consistent with the formula established  
8 in Appendix C of the Consent Decree, the City of Tacoma Environmental Services Department  
9 and Joseph Simon & Sons each will make additional payments to the Performing Parties, under  
10 separate agreements, to reimburse, in part, their share of additional Response Costs;  
11

12 NOW THEREFORE, the United States, the City of Tacoma Environmental Services  
13 Department; and Joseph Simon & Sons hereby agree that, upon approval of this amendment by  
14 the Court, the Consent Decree shall be amended as follows:

15 **AMENDED AND RESTATED PARTS OF THE CONSENT DECREE**  
16

17 All parts of the Consent Decree shall remain the same and in full effect except for the  
18 addition of paragraph 5.c. and the modification of Appendix C as follows:  
19

20 **VI. PAYMENT**  
21

22 5. c. Within 30 days after the effective date of this Amendment, the City of Tacoma  
23 Environmental Services Department shall pay to EPA \$8,346 (Eight Thousand Three Hundred  
24 Forty-six) in payment for Response Costs. Joseph Simon & Sons shall pay to EPA \$20,587  
25 (Twenty thousand Five Hundred Eighty-seven) in payment for Response Costs. Payment shall  
be made in accordance with Paragraphs 5 c. i) and ii). The total amount to be paid by each  
Settling Defendant shall be deposited by EPA in the Hylebos Waterway Problem Area Special

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1 Account to be retained and used to conduct or finance response actions at or in connection with  
2 the CB/NT Site, or to be transferred by EPA to the EPA Hazardous Substance Superfund.

3 i) All payments required to be made in accordance with this Paragraph shall be made by  
4 Fedwire EFT to:

5 Federal Reserve Bank of New York

6 ABA = 021030004

7 Account = 68010727

8 SWIFT address = FRNYUS33

9 33 Liberty Street

10 New York NY 10045

11 Field Tag 4200 of the Fedwire message should read "D 68010727 Environmental  
12 Protection Agency"

13 When making payments under this Paragraph, Settling Defendants shall also comply with sub-  
14 Paragraph 5 c. ii).

15 ii) All payments made under this Paragraph shall reference the CDCS Number, Site/Spill  
16 ID Number 102J, and DOJ Case Number 90-11-2-726. At the time of any payment required to  
17 be made in accordance with this Paragraph, the City of Tacoma Department of Public Utilities  
18 and Joseph Simon & Sons shall send notice that payment has been made to the United States and  
19 to EPA as described below, and to the EPA Cincinnati Finance Office by email at  
20 acctsreceivable.cinwd@epa.gov, or by mail at 26 Martin Luther King Drive, Cincinnati, Ohio  
21 45268. Such notice shall also reference the CDCS Number, Site/Spill ID Number, and DOJ Case  
22 Number. Notice to the United States and EPA shall be made to:

23  
24 Chief Environmental Enforcement Section  
25 Environment and Natural Resource Division  
26 U.S. Department of Justice  
27 P.O. Box 7611  
28 Washington, D.C. 20044-3986  
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Commencement Bay Nearshore/Tideflats  
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Environmental & Natural Resources  
Division  
Environmental Enforcement Section

1 Re: DJ# 90-11-2-726

2 Rick Albright  
3 Director of the Office of Environmental Cleanup  
4 USEPA Region 1200 Sixth Avenue  
5 Mail Code: ECL-117  
6 Seattle, WA 98101  
7 Jonathan Williams  
8 Remedial Project Manager  
9 USEPA Region 10  
10 1200 Sixth Avenue  
11 Mail Code: ECL-111  
12 Seattle, WA 98101

13 APPENDIX C TO THE CONSENT DECREE

14 The City of Tacoma Public Works and Joseph Simon & Sons/R&L shall be removed from the  
15 list of parties in Appendix C to the Consent Decree.

16 SO ORDERED THIS 29<sup>th</sup> DAY OF MAY, 2015.

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18 ROBERT J. BRYAN  
19 United States District Judge

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United States Department of Justice  
Environmental & Natural Resources  
Division  
Environmental Enforcement Section

1 THE UNDERSIGNED PARTIES enter into this Consent Decree in the matter of United States v.  
2 Mary Jane Anderson, et al., relating to the Hylebos Waterway Problem Areas, within the  
3 Commencement Bay Nearshore/Tideflats Superfund Site in the City of Tacoma, Pierce County,  
4 Washington:

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10 **FOR THE UNITED STATES OF AMERICA**

11 JOHN C. CRUDEN  
12 Assistant Attorney General  
13 Environmental and Natural Resources Division  
14 U.S. Department of Justice  
15 Washington, D.C. 20530

16 Date: 5-4-15

17   
18 MICHAEL J. MCNULTY  
19 Senior Counsel  
20 Environmental Enforcement Section  
21 Environmental and Natural Resources Division  
22 United States Department of Justice  
23 P.O. Box 7611  
24 Washington, D.C. 20044  
25 (202) 514-1210

26  
27 ANNETTE L. HAYES  
28 United States Attorney for the  
Western District of Washington

29  
30 BRIAN KIPNIS  
31 Assistant United States Attorney  
32 700 Stewart Street  
33 Seattle, WA 98101  
34 (206) 553-7970

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39 Superfund Site - C03-5107 FDB

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41 United States Department of Justice  
42 Environmental & Natural Resources  
43 Division  
44 Environmental Enforcement Section

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2 THE UNDERSIGNED PARTIES enter into this Amendment to the Consent Decree in the matter  
3 of United States v. Mary Jane Anderson, C03-5107 FDB, relating to the Hylebos Waterway  
4 Problem Areas within the Commencement Bay Nearshore/Tideflats Superfund Site in the City of  
Tacoma, Pierce County, Washington:

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7  
**FOR CITY OF TACOMA  
ENVIRONMENTAL SERVICES  
DEPARTMENT**

8 Date: 3-12-15

9  
10 MICHAEL P. SLEVIN III, P.E.  
11 Director, Environmental Services Department  
12 747 Market Street, #408  
13 Tacoma, WA 98402  
14 (253) 591-5528



15 Agent Authorized to Accept Service on Behalf of Above-Signed Party:

16  
17 Elizabeth Pauli  
18 City of Tacoma  
19 747 Market Street, Suite 100  
20 Tacoma, Washington 98402  
21 [epauli@cityoftacoma.org](mailto:epauli@cityoftacoma.org)  
22 253-591-5627

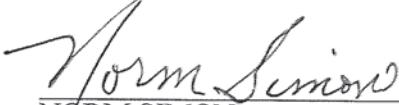
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2 of United States v. Mary Jane Anderson, C03-5107 FDB, relating to the Hylebos Waterway  
3 Problem Areas within the Commencement Bay Nearshore/Tideflats Superfund Site in the City of  
4 Tacoma, Pierce County, Washington:

5  
6 **FOR JOSEPH SIMON & SONS**

7 Date: 3/13/2015

8   
9 NORM SIMON  
10 Vice President  
11 30 Pt. Fosdick Dr. NW  
12 Gig Harbor, WA 98335

13 Agent Authorized to Accept Service on Behalf of Above-Signed Party:

14 Guy J. Sternal  
15 Eisenhower Carlson PLLC  
16 1200 Wells Fargo Plaza  
17 1201 Pacific Avenue  
18 Tacoma, Washington 98402  
19 gsternal@eisenhowerlaw.com  
20 253-572-4500

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